

ORDINANCE NO. 10-05-03

AN ORDINANCE TO AMEND ARTICLE 1, CHAPTER 1, "DEVELOPMENT AND BUILDING CODES" OF THE CITY OF LITHONIA, GEORGIA CODE OF ORDINANCES TO PROVIDE FOR ELECTIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Lithonia wish to amend the Code of Ordinances for the City of Lithonia, Georgia to provide building regulations and permitting;

NOW THEREFORE the Council for the City of Lithonia hereby ordains:

SECTION 1. Article 1, Chapter 1 of the Code of Ordinances of the City of Lithonia, Georgia is hereby amended to read as follows:

Article I.

Sec. 1-101 State Minimum Standard Codes

The purpose of this chapter is to provide for the administration and enforcement of the Georgia State Minimum Standard Codes as well as the optional codes adopted by the city and the State Minimum Fire Safety Standards. The Georgia State Minimum Standard Codes shall mean the following codes:

1. Standard Building Code (SBCII);
2. National Electrical Code as published by the National Fire Protection Association;
3. Standard Gas Code (SBCII);
4. Standard Mechanical Code (SBCII);
5. Georgia State Plumbing Code or the Standard Plumbing Code (SBCII);
6. Council of American Building Officials One and Two Family Dwelling Code, with the exception of Part 5 – Plumbing;
7. Georgia State Energy Code for Buildings as adopted by the State Building Administrative Board pursuant to an Act approved April 10, 1978 (Ga. L. 1978, p. 2212), as such code exists on September 30, 1991;
8. Standard Fire Prevention Code (SBCII);
9. Standard Housing Code (SBCII);
10. Standard Amusement Devise Code (SBCII);
11. Excavation and Grading Code (SBCII);
12. Standard Existing Buildings Code (SBCII);
13. Standard Swimming Pool Code (SBCII);
14. Standard Unsafe Building Abatement Code (SBCII).

Sec. 1-102 Statewide Application

The state minimum standard codes enumerated in sections 1 through 8 of Section 1-101 of this code shall have statewide application and do not require adoption by the City of Lithonia. The governing authority of any municipality in the state is authorized to enforce the state minimum standard codes.

2. No local amendment shall become effective until the City of Lithonia has caused a copy of the adopted amendment to be filed with the department. A copy of an amendment shall be deemed to have been filed with the department when it has been placed in the United States mail, return receipt requested.
3. Nothing in this subsection shall be construed so as to require approval by the department before a local amendment shall become effective.
4. The department shall maintain a file of all amendments to the state minimum standard codes adopted by the various municipalities and counties in the state, which information shall be made available to the public upon request. The department may charge reasonable fees for copies of such information. An index of such amendments shall be included in each new edition of a state minimum standard code.
5. At the time of issuing a building permit, the City of Lithonia shall notify the holder of the permit of any local amendments to the state minimum standard codes which are in effect for the City and that any such amendments are on file with the department. The City of Lithonia may satisfy this notice requirement by posting or proving a summary of the topic of such local amendment or amendments and the address and telephone number of the department.
6. Except as otherwise provided in this section, building related codes and sections dealing with the subjects of historic preservation, high-rise construction, or architectural design standards for which a state minimum standard code does not exist may be adopted by the City of Lithonia following review by the department. The department's review shall be limited to a determination that the proposed code or ordinance is consistent with the approved state minimum standard codes when common elements exist and is not less restrictive than the requirement of said codes. Changes to all other state minimum standard codes shall be approved only pursuant to the provisions of this section regarding local amendments.

Article II.

Sec. 1-105 Administration and Enforcement

The City Manager or his/her designee shall be responsible for the administration and enforcement of the codes set forth in this chapter, as well as the administration and enforcement of codes subsequently adopted.

Sec. 1-106 Purpose.

This article is declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems.

Sec. 1-107 Quality control.

The provisions of the Georgia State Plumbing Code or the Standard Plumbing Code shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances, and when connected to a water or sewerage system.

(g) Council of American Building Officials 1 and 2 Family Dwelling Code.

The provisions of the Council of American Building Officials 1- and 2-Family Dwelling Code with the exception of Part 5 Plumbing (CABO 1- and 2-Family Dwelling Code) shall apply to the construction, prefabrication, alteration, repair, use, occupancy and maintenance of detached one- or two-family dwellings and one-family town-homes not more than three stories in height, and their accessory structures.

(h) Georgia State Energy Code.

The provisions of the Georgia State Energy Code shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical service, water heating and illumination systems and equipment which will enable the effective use of energy in new building construction.

(i) Standard Fire Prevention Code.

The provisions of the Standard Fire Prevention Code shall apply to the repair, equipment, use and occupancy, and maintenance of every existing building or structure or any existing appurtenances connected or attached to such buildings or structures. When there are specific requirements, they shall take precedence over the general provisions.

(j) Standard Housing Code.

The provisions of this code shall apply to the buildings or portions thereof, all accessory structures or portions thereof located on residential property, used or unused, designed or intended to be used for human habitation or the storage of materials associated with human habitation. When there are specific requirements, they shall take precedence over the general provisions.

(k) Standard Existing Buildings Code.

The provisions of this code shall apply to the alteration, repair, removal, demolition, use and occupancy of existing buildings and structures. When there are specific requirements, they shall take precedence over the general requirements.

(l) Standard Swimming Pool Code.

The provisions of this code shall apply to the design, construction or installation, repair or alterations of swimming pools, public or private, and equipment related thereto. When there are specific requirements, they shall take precedence over the general provisions.

(m) Standard Unsafe Building Abatement Code.

The provisions of this code shall apply to all unsafe buildings or structures and shall apply equally to new and existing conditions. When there are specific requirements, they shall take precedence over the general provisions.

Upon notice from the Building Official, work on any building, structure, electrical, gas, mechanical, fire suppression, alarm, detection or plumbing system that is being done contrary to the provisions of this article or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

(c) Revocation of permits; misrepresentation of application.

The Building Official may revoke a permit or approval, issued under the provisions of this article, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(d) Revocation of permits; violation of article provisions.

The Building Official may revoke a permit upon determination by the Building Official that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this article. The Building Official may revoke a process permit upon determination by the Building Official that the occupancy or operation for which the permit was issued is in violation of, or not in conformity with, the provisions of this article.

(e) Revocation of permits; unsafe buildings or systems.

All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Standard Unsafe Building Abatement Code.

(f) Revocation of permits; requirements not covered by ordinance.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, shall be determined by the Building Official.

(g) Revocation of permits; alternate materials and methods.

The provisions of the technical codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the Building Official. The Building Official shall approve any such alternate, provided the Building Official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the technical codes, in quality, strength, effectiveness, fire resistance, durability and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

Sec. 1-113 Existing Buildings.

5. Replacement of any part which does not alter its approval or make it unsafe;

6. Any portable evaporative cooler;

7. Any self-contained refrigeration system containing 10 lb (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

(b) Work authorized.

A building, electrical, gas, mechanical or plumbing permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.

(c) Minor repairs.

Ordinary minor repairs may be made with the approval of the Building Official without a permit, provided that such repairs shall not violate any of the provisions of the technical codes.

(d) Information required.

Each application for a permit, with the required fee, shall be filed with the City Clerk on a form furnished for that purpose, and shall contain a general description of the proposed work and its location. The application shall be signed by the owner, or his authorized agent. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the City Clerk.

(e) Time limitations.

An application for a permit for any proposed work shall be deemed to have been abandoned twelve months after the date of filing for the permit, unless before then a permit has been issued. One or more extensions of time for periods of not more than ninety days each may be allowed by City Clerk for the application, provided the extension is requested in writing and justifiable cause is demonstrated.

(f) Drawings and specifications; requirements.

When required by the Building Official, two or more copies of specifications, and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the technical codes. Such information shall be specific, and the technical codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.

(g) Drawings and specifications; additional data.

The Building Official may require details, computations, stress diagrams and other data necessary to describe the construction or installation and the basis of calculations. All drawings,

performed and upon completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes. Where the Building Official relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of the technical codes and other pertinent laws or ordinances.

Sec. 1-118 Issuing permits; action on permits.

The Building Official shall act upon an application for a permit without unreasonable or unnecessary delay, or in no event later than two (2) working days after receipt of a complete application. If the Building Official is satisfied that the work described in an application for a permit and the contract documents filed therewith conform to the requirements of the technical codes and other pertinent laws and ordinances, he shall issue a permit to the applicant.

(a) Issuing permits; refusal to issue permit.

If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements of the technical codes or other pertinent laws or ordinances, the Building Official shall not issue a permit, but shall return the contract documents to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.

(b) Issuing permits; special foundation permit.

When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Official may, at his discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at his own risk and without assurance that a permit for the remainder of the work will be granted nor that corrections will not be required in order to meet provisions of the technical codes.

(c) Issuing permits; public right of way.

A permit shall not be given by the Building Official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays, balconies or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application at the office of the director of public works for DeKalb County for the lines of the public street on which he proposes to build, erect or locate the building; and it shall be the duty of the Building Official to see that the street lines are not encroached upon except as provided for in the standard building code.

(d) Issuing permits; contractors responsibilities.

It shall be the duty of every contractor who shall make contracts for the installation or repairs of building, structure, electrical, gas, mechanical or plumbing systems, for which a permit is required, to comply with state or local rules and regulations concerning licensing which the applicable governing authority may have adopted.

Sec. 1-119 Conditions of the permit; permit intent.

(c) Fees; schedule of permit fees.

On all buildings, structures, electrical, plumbing, mechanical and gas systems or alterations requiring a permit, a fee for each permit shall be paid as required at the time of filing application, in accordance with the schedule as established from time to time by the mayor and city council.

(d) Fees; building permit valuations.

If, in the opinion of the Building Official, the valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be underestimated on the application, permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

Sec. 1-121 Inspections.

(a) Existing building inspections.

Before issuing a permit the Building Official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of the technical codes.

If, during a fire department maintenance inspection of a building, the building or any of the building systems in whole or in part constitute a danger to human life, or a hazard to safety or health, the Building Official shall issue such notice or orders to remove or remedy the conditions and shall refer the building for any repairs, alterations, remodeling, removing or demolition required.

(b) Manufacturers and fabricators.

When deemed necessary by the Building Official, he shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the technical codes.

(c) Inspection service.

The Building Official may make, or cause to be made, the inspections required by this section. He may accept reports of inspectors of recognized inspection services provided that after investigation he is satisfied as to their qualifications and reliability. A certificate called for by any provision of the technical codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(d) Inspections prior to issuance of certificate of occupancy or completion.

The Building Official shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or plumbing system upon completion, prior to the issuance of the certificate of occupancy or completion.

(1) Underground Inspection. To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.

(2) Rough-In Inspection. To be made after the roof, framing, fireblocking and bracing is in place and prior to the installation of wall or ceiling membranes.

(3) Final Inspection. To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.

(c) Plumbing.

(1) Underground Inspection. To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.

(2) Rough-In Inspection. To be made after the roof, framing, fireblocking and bracing is in place and all soil, waste and vent piping is complete, and prior to installation of wall or ceiling membranes.

(3) Final Inspection. To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

Note: See the Standard Plumbing Code for required tests.

(d) Mechanical.

(1) Underground Inspection. To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.

(2) Rough-In Inspection. To be made after the roof, framing, fire blocking and bracing are in place and all ducting, other concealed components are complete, and prior to the installation of wall or ceiling membranes.

(3) Final Inspection. To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

(e) Gas.

(1) Rough Piping Inspection. To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.

(2) Final Piping Inspection. To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.

(3) Final Inspection. To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes, to insure compliance with all the requirements of this article and to assure that the installation and construction of the gas system is in accordance with reviewed plans.

Note: See the standard plumbing code for required tests.

(f) Fire Safety. (1) Final Inspection. To be made on all new buildings and structures to ensure proper distribution of extinguishers, detectors and other required appliances required by the fire

A temporary/partial certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion of the building.

Sec. 1-130 Certificate of occupancy; existing building certificate of occupancy.

A certificate of occupancy for any existing building may be obtained by applying to the Building Official and supplying the information and data necessary to determine compliance with the technical codes for the occupancy intended. Where necessary, in the opinion of the Building Official, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the technical codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued.

Sec. 1-131 Certificate of occupancy; certificate of completion.

Upon satisfactory completion of a building, structure, electrical, gas, mechanical or plumbing system, a certificate of completion may be issued. This certificate is proof that a structure or system is completed and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.

Sec. 1-132 Service utilities; connection.

No person shall make connections from a utility, source of energy, fuel or power to any building or system which is regulated by the technical codes for which a permit is required, until released by the Building Official and a certificate of occupancy or completion is issued.

Sec. 1-133 Service utilities; temporary connection.

The Building Official may authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy.

Sec. 1-134 Service utilities; authority to disconnect.

The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the technical codes, in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

- (2) A copy of his or her master plumber or utility contractor certificate issued by the State Construction Industry Licensing Board;
- (3) A copy of his or her trenching competent person certificate;
- (4) A certificate showing that a bond has been filed in accordance with paragraph (2) of subsection (b) of Code Section 43-14-12, except that such bond shall be in the amount of fifty thousand dollars (\$50,000.00) and issued by a surety rated "A," "Class VI," or better by the A.M. Best Company; and
- (5) Within five (5) business days after completion of the installation, a sworn certification that the water or sewer line has been installed in accordance with the Standard Plumbing Code.

C. The department has promulgated a standard form notice and a standard form certificate that shall be used to administer this subsection. The City Clerk shall make copies of the standard forms available to contractors.

D. The master plumber or utility contractor shall be required to pay to the City of Lithonia the applicable permit fee.

E. Upon submission of the certification required by this subsection, the City of Lithonia shall be required to accept the inspection without the necessity of further inspection or approval, except that it may perform an inspection at any time and may issue a stop-work order if the work is found to be in violation of code requirements.

F. Any other provision of this subsection notwithstanding, the alternative inspection procedure described in this subsection shall be applicable only to installations on private individual single-family residential property.

Section 1-107 Inspectors, Inspections and Violations Sec. 1-140 Alternate Code Compliance Inspections

As used in this Code section, the term:

- (a) **CABO** means the Council of American Building Officials.
- (b) **Qualified Inspector** means:
 - (1) A person inspecting for compliance with the Standard Building Code or the building portion of the CABO One-and Two-Family Dwelling Code who holds a certification from the SBCCI as a building inspector;
 - (2) A person inspecting for the compliance of residential buildings with the National Electrical Code or the electrical portion of the CABO One-and Two-Family Dwelling Code who holds a certification from the SBCCI as a residential electrical inspector or any electrical contractor license from the State Construction Industry Licensing Board;
 - (3) A person inspecting for the compliance of nonresidential buildings with the National Electrical Code who holds a certification from the SBCCI as

heating ventilation and air condition (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the City of Lithonia; provided, however, that the qualified inspector must possess the qualifications described in paragraph (B) of subsection (1) of this section for the particular type of inspection. Any inspection conducted pursuant to this section shall be no less extensive than an inspection conducted by the City.

Upon submission by the qualified inspector of a copy of his or her inspection report to the City Clerk, the City shall be required to accept the inspection of the qualified inspector without the necessity of further inspection or approval by the inspectors or other personnel employed by it unless it notifies the qualified inspector, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the qualified inspector with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

Nothing in this section shall be construed to apply to inspections for compliance with a state or local fire safety standard or erosion control standard.

Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

Sec. 1-108 Code Compliance Inspections Sec. 1-141 Inspection by Independent Contractor

(a) If the Mayor and Council cannot provide inspection services within two (2) business days of receiving complete written request for inspection, then in lieu of inspection by inspectors or other personnel employed by such governing authority, any person, firm or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a professional engineer who holds a certificate of registration issued under O.C.G.A § Chapter 15 of Title 43, and who is not an employee of or otherwise affiliated with or financially interested in such person, firm, or corporation, to provide the required inspection.

(b) Any inspection conducted by a registered professional engineer shall be no less extensive than an inspection conducted by the City.

(c) The person, firm, or corporation retaining a registered professional engineer to conduct an inspection shall be required to pay to the City the same permit fees and charges which would have been required had the inspection been conducted by the City.

(d) The registered professional engineer shall be empowered to perform any inspection required by the City of Lithonia, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the engineer's branch of engineering expertise.

(e) The registered professional engineer shall submit a copy of his or her inspection report to the City Clerk.

(f) Upon submission by the registered professional engineer of a copy of his or her inspection report to the City Clerk, the City shall be required to accept the inspection of the registered professional engineer without the necessity of further inspection or approval by the inspectors or other personnel employed by the Mayor and Council unless the Mayor and Council has notified the registered professional engineer, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has

provided the registered professional engineer with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

(g) The Mayor and Council may provide for the prequalification of registered professional engineers who may perform inspections pursuant to this subsection. No ordinance implementing prequalification has been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered professional engineer on the basis of the engineer's expertise with respect to the objectives of the inspection, as demonstrated by the engineer's experience, education, and training.

(h) Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

Sec. 1-142 Appeals; decision of the Building Official.

The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the Building Official to the Mayor and City Council whenever any one of the following conditions are claimed to exist:

(1) The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system;

(2) The provisions of this article do not apply to this specific case;

(3) That an equally good or more desirable form of installation can be employed in any specific case;

(4) The true intent and meaning of this article or any of the regulations thereunder have been misconstrued or incorrectly interpreted.

Sec. 1-143 Appeals; variances.

The Building Official may vary the application of any provisions of this article to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

(1) That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others;

(2) That the special conditions and circumstances do not result for the action or inaction of the applicant;

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this article to other buildings, structures or service system;

(4) That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system;

(5) That the grant of the variance will be in harmony with the general intent and purpose of this article and will not be detrimental to the public health, safety and general welfare.

Sec. 1-144 Appeals; conditions of the variance.

In granting the variance, the Building Official may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both, in addition, the Building Official may prescribe appropriate conditions and safeguards in conformity with this article. Violation of the conditions of a variance shall be deemed a violation of this article.

Sec. 1-45 Appeals; notice of appeal.

Notice of appeal shall be in writing and filed within 30 calendar days after the decision is rendered by the Building Official. Appeals shall be filed with and in a form acceptable to the City Manager.

Sec. 1-146 Appeals; unsafe or dangerous buildings or service system.

In the case of a building, structure, operation or service system which, in the opinion of the Building Official, is unsafe, unsanitary or dangerous, the Building Official may, in his order, limit the time for such appeals to a shorter period.

Sec. 1-147 Procedures of the City Manager; decisions.

The City Manager shall, in every case, reach a decision within one week. Each decision of the City Manager shall include the reasons for the decision. If a decision of the City Manager reverses or modifies a refusal, order or disallowance of the Building Official or varies the application of any provision of this article, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the Building Official for two (2) weeks after filing. Every decision of the City Manager shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

Sec. 1-148 Violation; penalty.

(a) Any person, firm, corporation or agent who shall violate a provision of this article, or fails to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and

permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provision of this article is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

(b) The Building Official or his designee shall be authorized to issue citations for any violation of this article.

SECTION 2. Repeal of Conflicting Provisions. All ordinances or parts of ordinances in conflict with this ordinance, and not preserved hereby, are hereby repealed.

SECTION 3. Severability. If any section, provision, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

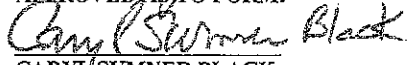
SECTION 4. Effective date. This Ordinance shall become effective immediately following approval by the Mayor and Council of the City of Lithonia.

APPROVED AND ADOPTED THIS 3rd DAY OF October, 2005.



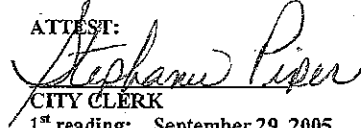
DAROLD HONORE
Mayor

APPROVED AS TO FORM:



CARYL SUMNER BLACK
City Attorney

ATTEST:



CITY CLERK

1st reading: September 29, 2005

2nd reading: October 3, 2005

Passed on 2nd reading: XX

Failed: _____